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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/688,798

10/17/2003

Wayne Debord

3302

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39510

7590

11/22/2005

HOLLAND & MIDGLEY, LLP

P.O. BOX 1840

BOISE, ID 83701-1840

EXAMINER

NGUYEN, HUNG T

ART UNIT

PAPER NUMBER

2636

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/688,798

Applicant(s)

DEBORD ET AL.

Examiner

HUNG T. NGUYEN

Art Unit

2636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13-25, 27-37, 39-41, 43 and 44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13-25, 27-37, 39-41, 43 and 44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-11, 13-25, 27-37, 39-41 & 43-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rothschild et al. (U.S. 5,802,015) in view of Medin (U.S. 5,442,669) further in view of Peter Tew (GB 2,361,064).

Regarding claim 1, Rothschild discloses an electronic timing label device (10) as ASIC chip for monitoring and alerting (14) persons to the spoilage of perishable products (11) [figs. 1,4-6, col. 1, lines 5-8, col.4, lines 7-20, col.4, lines 51-66 and abstract] comprising:

- a timer chip (40) / timer clock counter (26) [fig.6, col.3, lines 15-37, col.4, lines 11-15, col.6, lines 55-61 and col.7, lines 22-37];
- a battery (19) [fig.6, col.3, lines 45-47, col.6, lines 51-55];
- an electronic monitoring or timing circuit / a timer chip (40) / timer clock counter (26) [fig.6, col.3, lines 15-37, col.4, lines 11-15, col.6, lines 55-61 and col.7, lines 22-37];
- a circuit board (20) [figs.3-4,7, col.5, lines 18-29];

- an indicator / LED or liquid crystal display (14) connected to the circuit (20) the battery (19) and timer chip (40), clock counter (26) to provide the alarm signal to the users or consumers [figs. 1,3-4,6, col.3, lines 30-59, col.4, lines 7-20, col.4, lines 51-66 and abstract].

Although, the reference of Rothschild does not specifically mention time bases is a temperature and the electronic timing circuit having a microcomputer and a register device as claimed by the applicant.

Furthermore, Medin teaches a perishable good integrity indicator includes a second oscillator (15) outputs a second clock temperature which varies as a function of temperature and measuring historical time temperature relationships and displaying a remaining product shelf life, integrity and a product spoilage index at any point of time [figs. 1,3, col.2, lines 14-28, col.3, lines 24-32, col.4, lines 16-27, col.8, lines 48 to col.9, line 10].

Therefore, it would have been obvious to one having ordinary skill in the art to employ the teaching of Medin in the system of Rothschild for detecting the time temperature of the food products are over limit and indicating the spoilage of perishable foods / drugs.

The combination of Rothschild & Medin are still missing the limitations of the electronic timing circuit having a microcomputer and a register device as claimed by the applicant.

Finally, Tew does teach an electronic device may determine lifetime of a product as foods which may have a microprocessor unit (4) which contains a clock for

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measuring elapsed time and a memory unit for storing data for calculating the remaining lifetime of the product as programmed [fig.1, col.2, lines 24-28].

Therefore, it would have been obvious to one having ordinary skill in the art to have the teaching of Medin and Tew includes a microprocessor unit in the system of Rothschild for controlling & detecting the time temperature of the food products are over limit and indicating the spoilage of perishable foods / drugs as programmed by foods ? drugs companies.

Regarding claim 2, Rothschild discloses an electronic timing label device (10) for monitoring and alerting (14) persons to the spoilage of perishable products / drug bottles (11) [figs. 1,4-6, col.1, lines 5-8, col.4, lines 7-20, col.4, lines 51-66 and abstract].

Regarding claim 3, Medin teaches the perishable good integrity indicator includes a second oscillator (15) outputs a second clock temperature which varies as a function of temperature and measuring historical time temperature relationships and displaying a remaining product shelf life, integrity and a product spoilage index at any point of time [1,3, col.2, lines 14-28, col.3, lines 24-32, col.4, lines 16-27, co1.8, lines 48 to co1.9, line 10].

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Regarding claims 4-6, Medin teaches the perishable good integrity indicator includes a second oscillator (15) outputs a second clock temperature which varies as a function of temperature and measuring historical time temperature relationships and displaying a remaining product shelflife, integrity and a product spoilage index at any point of time and the frequency can be set / programmed by a user / a desired time temperature application [figs. 1,3, col.1, lines 45-68, col.6, lines 49-68, col.8, lines 48 to col.9, line 10].

Regarding claims 7-9, Medin teaches the perishable good integrity indicator includes a second oscillator (15) outputs a second clock temperature which varies as a function of temperature and measuring historical time temperature relationships and displaying a remaining product shelflife, integrity and a product spoilage index at any point of time and the frequency can be set / programmed by a user / a desired time temperature application [figs. 1,3, col.1, lines 45-68, col.6, lines 49-68, col.8, lines 48 to col.9, line 10] without mention type of resonance circuit as claimed by the applicant because that is an obvious design choice of the skilled artisan.

Furthermore, Rothschild discloses the electronic timing label device (10) for monitoring and alerting (14) persons to the spoilage of perishable products (11) [figs. 1,4-6, col.1, lines 5-8, col.4, lines 7-20, col.4, lines 51-66 and abstract] comprising:
- the indicator / LED or liquid crystal display (14) is connected to the circuit (20) the battery (19) and timer chip (40), clock counter (26) to provide the alarm signal to the

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users or consumers includes the circuit of resonance (RC circuit) [figs.3,6, col.5, lines 34-42 and col.6, lines 3-9 and col.6, line 60 to col.7, line 5].

Regarding claim 10, Rothschild discloses the indicator (14) is an audible / horn is connected to the circuit (20) the battery (19) and timer chip (40), clock counter (26) to provide the alarm signal to the users or consumers [col.9, lines 45-49].

Regarding claim 11, Medin teaches the perishable good integrity indicator includes a second oscillator (15) outputs a second clock temperature which varies as a function of temperature and measuring historical time temperature relationships and displaying a remaining product shelflife, integrity and a product spoilage index at any point of time and the frequency can be set / programmed by a user / a desired time temperature application [figs.1,3, col.1, lines 45-68, col.6, lines 49-68, col.8, lines 48 to col.9, line 10].

Regarding claim 13, Rothschild discloses an electronic timing label device (10) is the integrated circuit / ASIC / IC chip which may programmed data information for monitoring and alerting (14) persons to the spoilage of perishable products / drug bottle (11) [figs.5-6, col.6, lines 2-48, and col.9, line 50 to col.10, line 54].

Regarding claims 14-15, Rothschild discloses the indicator / LED or liquid crystal display (14) is connected to the circuit (20), the battery (19) and timer chip (40), clock

counter (26) to provide the alarm signal to the users or consumers [figs.1,3-4,6, col.3, lines 30-59, col.4, lines 7-20, col.4, lines 51-66 and abstract].

Regarding claim 16, Rothschild discloses an electronic timing label device (10) as ASIC chip for monitoring and alerting (14) persons to the spoilage of perishable products (11) [figs. 1,4-6, col. 1, lines 5-8, col.4, lines 7-20, col.4, lines 51-66 and abstract]

comprising:

- a timer chip (40) / timer clock counter (26) [fig.6, col.3, lines 15-37, col.4, lines 11-15, col.6, lines 55-61 and col.7, lines 22-37];
- a battery (19) [fig.6, col.3, lines 45-47, col.6, lines 51-55];
- an electronic monitoring or timing circuit / a timer chip (40) / timer clock counter (26) [fig.6, col.3, lines 15-37, col.4, lines 11-15, col.6, lines 55-61 and col.7, lines 22-37];
- a circuit board (20) [figs.3-4,7, col.5, lines 18-29];
- an indicator / LED or liquid crystal display (14) connected to the circuit (20) the battery (19) and timer chip (40), clock counter (26) to provide the alarm signal to the users or consumers [figs. 1,3-4,6, col.3, lines 30-59, col.4, lines 7-20, col.4, lines 51-66 and abstract].

Although, the reference of Rothschild does not specifically mention time bases is a temperature and the electronic timing circuit having a microcomputer and a register device as claimed by the applicant.

Furthermore, Medin teaches a perishable good integrity indicator includes a second oscillator (15) outputs a second clock temperature which varies as a function of

temperature and measuring historical time temperature relationships and displaying a remaining product shelf life, integrity and a product spoilage index at any point of time [figs. 1,3, col.2, lines 14-28, col.3, lines 24-32, col.4, lines 16-27, col.8, lines 48 to col.9, line 10].

Therefore, it would have been obvious to one having ordinary skill in the art to employ the teaching of Medin in the system of Rothschild for detecting the time temperature of the food products are over limit and indicating the spoilage of perishable foods / drugs.

The combination of Rothschild & Medin are still missing the limitations of the electronic timing circuit having a microcomputer and a register device as claimed by the applicant.

Finally, Tew does teach an electronic device may determine lifetime of a product as foods which may have a microprocessor unit (4) which contains a clock for measuring elapsed time and a memory unit for storing data for calculating the remaining lifetime of the product as programmed [fig.1, col.2, lines 24-28].

Therefore, it would have been obvious to one having ordinary skill in the art to have the teaching of Medin and Tew includes a microprocessor unit in the system of Rothschild for controlling & detecting the time temperature of the food products are over limit and indicating the spoilage of perishable foods / drugs as programmed by foods ? drugs companies.

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Regarding claim 17, Medin teaches the perishable good integrity indicator includes a second oscillator (15) outputs a second clock temperature which varies as a function of temperature and measuring historical time temperature relationships and displaying a remaining product shelf life, integrity and a product spoilage index at any point of time [1,3, col.2, lines 14-28, col.3, lines 24-32, col.4, lines 16-27, co1.8, lines 48 to co1.9, line 10].

Regarding claims 18-20, Medin teaches the perishable good integrity indicator includes a second oscillator (15) outputs a second clock temperature which varies as a function of temperature and measuring historical time temperature relationships and displaying a remaining product shelflife, integrity and a product spoilage index at any point of time and the frequency can be set / programmed by a user / a desired time temperature application [figs. 1,3, col.1, lines 45-68, col.6, lines 49-68, col.8, lines 48 to col.9, line 10].

Regarding claims 21-23, Medin teaches the perishable good integrity indicator includes a second oscillator (15) outputs a second clock temperature which varies as a function of temperature and measuring historical time temperature relationships and displaying a remaining product shelflife, integrity and a product spoilage index at any point of time and the frequency can be set / programmed by a user / a desired time temperature application [figs. 1,3, col.1, lines 45-68, col.6, lines 49-68, col.8, lines 48 to col.9, line

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10] without mention type of resonance circuit as claimed by the applicant because that is an obvious design choice of the skilled artisan.

Furthermore, Rothschild discloses the electronic timing label device (10) for monitoring and alerting (14) persons to the spoilage of perishable products (11) [figs. 1,4-6, col.1, lines 5-8, col.4, lines 7-20, col.4, lines 51-66 and abstract] comprising:
- the indicator / LED or liquid crystal display (14) is connected to the circuit (20) the battery (19) and timer chip (40), clock counter (26) to provide the alarm signal to the users or consumers includes the circuit of resonance (RC circuit) [figs.3,6, col.5, lines 34-42 and col.6, lines 3-9 and col.6, line 60 to col.7, line 5].

Regarding claim 24, Rothschild discloses the indicator (14) is an audible / horn is connected to the circuit (20) the battery (19) and timer chip (40), clock counter (26) to provide the alarm signal to the users or consumers [col.9, lines 45-49].

Regarding claim 25, Medin teaches the perishable good integrity indicator includes a second oscillator (15) outputs a second clock temperature which varies as a function of temperature and measuring historical time temperature relationships and displaying a remaining product shelflife, integrity and a product spoilage index at any point of time and the frequency can be set / programmed by a user / a desired time temperature application (figs.1,3, col.1, lines 45-68, col.6, lines 49-68, col.8, lines 48 to col.9, line 10].

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Regarding claim 27, Rothschild discloses an electronic timing label device (10) is the integrated circuit / ASIC / IC chip which may programmed data information for monitoring and alerting (14) persons to the spoilage of perishable products / drug bottle (11) [figs.5-6, col.6, lines 2-48, and col.9, line 50 to col.10, line 54].

Regarding claim 29, Rothschild discloses the indicator (14) is an audible / horn is connected to the circuit (20) the battery (19) and timer chip (40), clock counter (26) to provide the alarm signal to the users or consumers [col.9, lines 45-49].

Regarding claim 30, Rothschild discloses an electronic timing label device (10) as ASIC chip for monitoring and alerting (14) persons to the spoilage of perishable products (11) [figs. 1,4-6, col. 1, lines 5-8, col.4, lines 7-20, col.4, lines 51-66 and abstract] comprising:

- a timer chip (40) / timer clock counter (26) [fig.6, col.3, lines 15-37, col.4, lines 11-15, col.6, lines 55-61 and col.7, lines 22-37];
- a battery (19) [fig.6, col.3, lines 45-47, col.6, lines 51-55];
- an electronic monitoring or timing circuit / a timer chip (40) / timer clock counter (26) [fig.6, col.3, lines 15-37, col.4, lines 11-15, col.6, lines 55-61 and col.7, lines 22-37];
- a circuit board (20) [figs.3-4,7, col.5, lines 18-29];
- an indicator / LED or liquid crystal display (14) connected to the circuit (20) the battery (19) and timer chip (40), clock counter (26) to provide the alarm signal to the users or

consumers [figs. 1,3-4,6, col.3, lines 30-59, col.4, lines 7-20, col.4, lines 51-66 and abstract].

Although, the reference of Rothschild does not specifically mention time bases is a temperature and the electronic timing circuit having a microcomputer and a register device as claimed by the applicant.

Furthermore, Medin teaches a perishable good integrity indicator includes a second oscillator (15) outputs a second clock temperature which varies as a function of temperature and measuring historical time temperature relationships and displaying a remaining product shelf life, integrity and a product spoilage index at any point of time [figs. 1,3, col.2, lines 14-28, col.3, lines 24-32, col.4, lines 16-27, col.8, lines 48 to col.9, line 10].

Therefore, it would have been obvious to one having ordinary skill in the art to utilize the teaching of Medin in the system of Rothschild for detecting the time temperature of the food products are over limit and indicating the spoilage of perishable foods / drugs.

The combination of Rothschild & Medin are still missing the limitations of the electronic timing circuit having a microcomputer and a register device as claimed by the applicant.

Finally, Tew does teach an electronic device may determine lifetime of a product as foods which may have a microprocessor unit (4) which contains a clock for measuring elapsed time and a memory unit for storing data for calculating the remaining lifetime of the product as programmed [fig.1, col.2, lines 24-28].

Therefore, it would have been obvious to one having ordinary skill in the art to employ the teaching of Medin and Tew includes a microprocessor unit in the system of Rothschild for controlling & detecting the time temperature of the food products are over limit and indicating the spoilage of perishable foods / drugs as programmed by foods ? drugs companies.

Regarding claims 31-32, Medin teaches the perishable good integrity indicator includes a second oscillator (15) outputs a second clock temperature which varies as a function of temperature and measuring historical time temperature relationships and displaying a remaining product shelflife, integrity and a product spoilage index at any point of time and the frequency can be set / programmed by a user / a desired time temperature application [figs.1,3, col.1, lines 45-68, col.6, lines 49-68, col.8, lines 48 to col.9, line 10].

Regarding claims 33-35, Medin teaches the perishable good integrity indicator includes a second oscillator (15) outputs a second clock temperature which varies as a function of temperature and measuring historical time temperature relationships and displaying a remaining product shelflife, integrity and a product spoilage index at any point of time and the frequency can be set / programmed by a user / a desired time temperature application [figs. 1,3, col.1, lines 45-68, col.6, lines 49-68, col.8, lines 48 to col.9, line 10] without mention type of resonance circuit as claimed by the applicant because that is an obvious design choice of the skilled artisan.

Furthermore, Rothschild discloses the electronic timing label device (10) for monitoring and alerting (14) persons to the spoilage of perishable products (11) [figs. 1,4-6, col.1, lines 5-8, col.4, lines 7-20, col.4, lines 51-66 and abstract] comprising:
- the indicator / LED or liquid crystal display (14) is connected to the circuit (20) the battery (19) and timer chip (40), clock counter (26) to provide the alarm signal to the users or consumers includes the circuit of resonance (RC circuit) [figs.3,6, col.5, lines 34-42 and col.6, lines 3-9 and col.6, line 60 to col.7, line 5].

Regarding claim 36, Rothschild discloses the indicator (14) is an audible / horn is connected to the circuit (20) the battery (19) and timer chip (40), clock counter (26) to provide the alarm signal to the users or consumers [col.9, lines 45-49].

Regarding claim 37, Medin teaches the perishable good integrity indicator includes a second oscillator (15) outputs a second clock temperature which varies as a function of temperature and measuring historical time temperature relationships and displaying a remaining product shelflife, integrity and a product spoilage index at any point of time and the frequency can be set / programmed by a user / a desired time temperature application [figs.1,3, col.1, lines 45-68, col.6, lines 49-68, col.8, lines 48 to col.9, line 10].

Regarding claim 39, Rothschild discloses an electronic timing label device (10) is the integrated circuit / ASIC / IC chip which may programmed data information for

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monitoring and alerting (14) persons to the spoilage of perishable products / drug bottle (11) [figs.5-6, col.6, lines 2-48, and col.9, line 50 to col.10, line 54].

Regarding claims 40-41, Rothschild discloses the indicator (14) is an audible / horn is connected to the circuit (20) the battery (19) and timer chip (40), clock counter (26) to provide the alarm signal to the users or consumers [col.9, lines 45-49].

Regarding claim 43, Medin teaches the perishable good integrity indicator includes a second oscillator (15) outputs a second clock temperature which varies as a function of temperature and measuring historical time temperature relationships and displaying a remaining product shelf life, integrity and a product spoilage index at any point of time [1,3, col.2, lines 14-28, col.3, lines 24-32, col.4, lines 16-27, col.8, lines 48 to col.9, line 10].

Regarding claim 44, Medin teaches the perishable good integrity indicator includes a second oscillator (15) outputs a second clock temperature which varies as a function of temperature and measuring historical time temperature relationships and displaying a remaining product shelflife, integrity and a product spoilage index at any point of time and the frequency can be set / programmed by a user / a desired time temperature application [figs. 1,3, col.1, lines 45-68, col.6, lines 49-68, col.8, lines 48 to col.9, line 10].

Arguments & Responses

3. Applicant's argument filed on Oct. 11, 2005 have been fully considered but they are moot in view of the new ground(s) of rejection.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung T. Nguyen whose telephone number is (571) 272-

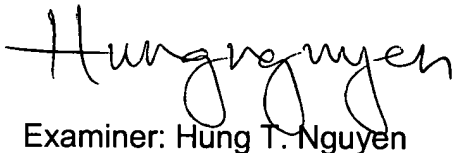
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2982. The examiner can normally be reached on Monday to Friday from 8:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hofsass, Jeffery can be reached on (571) 272-2981. The fax phone number for this Group is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.

HUNG NGUYEN
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read "Hung T. Nguyen". The signature is fluid and cursive, with the first name "Hung" and last name "Nguyen" clearly distinguishable.

Examiner: Hung T. Nguyen

Date: Nov. 14, 2005